

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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STEVEN J. LOVETT,

Plaintiff,

- against -

ACTING SUPT. SUSIE BENNETT OF
SULLIVAN CORRECTIONAL FACILITY

Defendants.
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USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 4/5/2023

22-CV-05462 (NSR)

NOTICE OF MOTION TO DISMISS

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law in Support of Defendants' Motion to Dismiss dated March 15, 2023, and all other prior pleadings and proceedings herein, defendants Correction Officer ("CO") Shane Topel, CO Kevin Darling, CO Felix Santos, and Acting Superintendent Susie Bennett, by their attorney, Letitia James, Attorney General of the State of New York, will move this Court before the Honorable Nelson S. Román, United States District Judge, for an Order pursuant to Federal Rules of Civil Procedure 12(b)(6) and 12(b)(1), dismissing the Second Amended Complaint, and for such further relief as this Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that pursuant to the Scheduling Order dated February 15, 2023, opposition papers, if any, are to be served and filed by May 1, 2023. Reply papers, if any, are to be served and filed by May 16, 2023.

Dated: New York, NY
March 15, 2023

LETITIA JAMES
Attorney General of the State of New York
*Attorney for Defendants Topel, Darling,
Santos, and Bennett*

By: /s/ Suzanna Publicker Mettham

Suzanna Publicker Mettham
Assistant Attorney General
28 Liberty Street, 18th Floor
New York, New York 10005
(212) 416-6295
Suzanna.Mettham@ag.ny.gov

DATED: April 5, 2023
White Plains, NY

SO ORDERED:


HON. NELSON S. ROMAN
UNITED STATES DISTRICT JUDGE

MEMO ENDORSED

Defendants' motion to dismiss is DENIED without prejudice to refile upon the reply date, May 16, 2023, as directed in this Court's order, dated February 15, 2023. (ECF No. 35.) As directed by the Court at ECF No. 35, Plaintiff's opposition papers are to be served (not filed) on May 1, 2023, and Defendants' reply papers are to be served on May 16, 2023. All motion papers are to be filed by Defendants (including pro se Plaintiff's papers) on the reply date, May 16, 2023. The Clerk of Court is respectfully directed to terminate the motion at ECF No. 40. The Clerk of Court is respectfully directed to mail this Endorsement and a copy of ECF No. 35 to pro se Plaintiff at his address listed on ECF and to show service on the docket.